

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

**IN RE: JOHNSON & JOHNSON TALCUM  
POWDER PRODUCTS MARKETING,  
SALES PRACTICES, AND PRODUCTS  
LIABILITY LITIGATION**

**MDL No. 3:16-md-02738-MAS-RLS**

**JUDGE MICHAEL A. SHIPP  
MAG. JUDGE RUKHSANAH L. SINGH**

**THIS DOCUMENT RELATES TO:**

SUZANNA WILLIAMS  
CIVIL CASE NO. 2019-CV-13438

RHONDA JAMES  
CIVIL CASE NO. 2019-CV-14421

JANE MITCHELL  
CIVIL CASE NO. 2019-CV-15425

CHRISTINA SENA-HERNANDEZ  
CIVIL CASE NO. 2019-CV-16241

NATALIE RADBILL  
CIVIL CASE NO. 2019-CV-16389

JANET MOINA  
CIVIL CASE NO. 2019-CV-17586

PANILLA WALLACE  
CIVIL CASE NO. 2019-CV-17589

DOROTHY WORLEY  
CIVIL CASE NO. 2019-CV-17932

TAMMY SIMMONS  
CIVIL CASE NO. 2019-CV-17939

AMELIA WHITEHEAD  
CIVIL CASE NO. 2019-CV-21318

SYLVIA PEREZ  
CIVIL CASE NO. 2019-CV-21337

EULA LAFRANCE  
CIVIL CASE NO. 2019-CV-06853

MARIA MENDOZA  
CIVIL CASE NO. 2019-CV-17533

TERESA VINES  
CIVIL CASE NO. 2019-CV-17534

RUTHANN SOGUILON  
CIVIL CASE NO. 2018-CV-03103

AUDREY ROBERTS  
CIVIL CASE NO. 2018-CV-03105

**RESPONSE TO AUGUST 15, 2024 ORDER TO SHOW CAUSE (DKT. 33096)**

Melanie Meneses Palmer of Kiesel Law LLP submits the following Response to the Court's August 15, 2024 Order to Show Cause Why Cases on the Attached Exhibit A Should Not Be Dismissed With Prejudice (Dkt. 33096) on behalf of the following Kiesel Law Plaintiffs:

Row #	Case Name	Current Cause #
808	WILLIAMS, SUZANNA	2019-CV-13438
809	JAMES, RHONDA	2019-CV-14421
810	MITCHELL, JANE	2019-CV-15425
811	SENA-HERNANDEZ, CHRISTINA	2019-CV-16241
812	RADBILL, NATALIE	2019-CV-16389
813	MOINA, JANET	2019-CV-17586
814	WALLACE, PANILLA	2019-CV-17589
815	WORLEY, DOROTHY	2019-CV-17932
816	SIMMONS, TAMMY	2019-CV-17939
817	WHITEHEAD, AMELIA	2019-CV-21318
818	PEREZ, SYLVIA	2019-CV-21337
819	LAFRANCE, EULA	2019-CV-06853
821	MENDOZA, MARIA	2019-CV-17533
822	VINES, TERESA	2019-CV-17534
944	SOGUILON, RUTHANN <sup>1</sup>	2018-CV-03103
945	ROBERTS, AUDREY <sup>2</sup>	2018-CV-03105

<sup>1</sup> Kiesel Law LLP is co-counsel on behalf of Ms. Soguilon along with Martinian & Associates and the Law Offices of Haytham Faraj.

<sup>2</sup> Kiesel Law LLP is co-counsel on behalf of Ms. Roberts along with Martinian & Associates and

## 1. UNRESOLVED DEFICIENCIES

On December 4, 2019, a Complaint was directly filed on behalf of each Kiesel Law LLP Plaintiff in MDL No. 2738. Pursuant to the September 1, 2023 Amended Plaintiff's Profile Form ("PPF") Order, a Plaintiff Profile Form, core records, and signed medical records authorizations were required to be served upon Defendants via MDL Centrality by a certain date. Counsel for Plaintiffs made several attempts to contact each Plaintiff to obtain the necessary information and documents to comply with the Court's September 1, 2023 Amended PPF Order. Unfortunately, Counsel lost contact with the Plaintiffs identified above during the two-year bankruptcy stay. Despite multiple contact attempts via U.S. Mail, phone, and email, Plaintiffs have not returned their completed PPFs with all core records to Counsel for filing nor have they responded to Counsel's many communication attempts. All of the correspondence asked Plaintiffs to contact Counsel immediately in order to cure the delinquencies and advised that Johnson & Johnson seeks to dismiss their cases. These Plaintiffs have been provided Counsel's contact information on multiple occasions.

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the Law Offices of Haytham Faraj.

Accordingly, we respectfully request an additional sixty (60) days to cure any alleged PPF deficiencies for Plaintiffs' cases, or in the alternative, that the cases be dismissed **without** prejudice as there is no basis for imposing the most severe terminating sanction, a dismissal with prejudice, in this situation.<sup>3</sup>

DATED: September 5, 2024

Respectfully Submitted,

KIESEL LAW LLP

By: /s/ Melanie Meneses Palmer  
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<sup>3</sup> A trial court has the discretionary power to impose sanctions for failure to comply with discovery requests. *Hirsch v. Gen. Motors Corp.*, 266 N.J. Super. 222, 628 A.2d 1108 (Law. Div. 1993). Although it is policy that discovery rules must be complied with it is also the rule that drastic sanction should be imposed sparingly. *Reizakis v. Loy*, 490 F.2d 1132, 1135 (4th Cir. 1974); *Dyotherm Corp. v. Turbo Machine Co.*, 392 F.2d 146, 148 (3rd Cir. 1968) (Trial courts often abuse discretion when failing to apply sanction less severe than dismissal.). The penalty that is imposed should be appropriate and fair to both parties. *Williams v. Am. Auto. Logistics*, 226 N.J. 117, 124, 140 A.3d 1262 (2016). Dismissal with prejudice is such a severe sanction to be used only in extreme circumstances, where there is a clear record of delay or contumacious conduct, and where lesser sanctions would not serve the best interests of justice. *National Hockey League v. Met. Hockey Club*, 427 U.S. 639, 643 (1976); *see also Boazman v. Economics Laboratory Inc.*, 573 F.2d 210, 212 (5th Cir. 1976). The normal rule is that the proper sanction "must be no more severe than is necessary to prevent prejudice to the movant." *Wilson v. Volkswagen of Am.*, 561 F.2d 494, 504-05 (4th Cir. 1977). The Third Circuit has agreed with the Supreme Court that because dismissal is a such a harsh sanction it is only "reserved for those cases where there is a clear record of delay or contumacious conduct by the plaintiff." *Poulis v. State Farm Fire & Casualty Co.*, 747 F.2d 863, 866 (3rd Cir. 1984).

**CERTIFICATE OF SERVICE**

I hereby certify that on September 5, 2024, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF system which will send notification of such filing to the CM/ECF participants registered to receive services in this MDL.

Dated: September 5, 2024

Respectfully Submitted,

By: /s/ Melanie Meneses Palmer

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